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2                   UNITED STATES DISTRICT COURT  
3                   EASTERN DISTRICT OF WASHINGTON

4                   ANDREDA GOLDEN,

5                   Plaintiff,

6                   vs.

7                   HUBBELL INCORPORATED, a  
8                   Connecticut corporation,  
9                   also known as HUBBELL  
10                  LIGHTING, INC., a  
11                  Connecticut corporation, and  
12                  HUBBELL INCORPORATED  
13                  RETIREMENT PLAN FOR  
14                  COLLECTIVELY BARGAINED  
15                  HOURLY EMPLOYEES, an  
16                  employee benefit plan,

17                  Defendants.

18                   NO. CV-07-0370-LRS

19                   **ORDER DENYING MOTION TO REOPEN  
20                  CASE AND RECONSIDER**

21                  BEFORE THE COURT is the Plaintiff's Motion to Reopen Case and  
22                  Reconsider Order Granting Defendant's Motion to Dismiss (Ct. Rec. 27),  
23                  filed April 21, 2008 and noted for hearing without oral argument on May  
24                  27, 2008. Plaintiff asks the court to reconsider its order granting  
25                  defendants' motion to dismiss. Since all briefing is before the court  
26                  at this time and has been fully considered, this order is now being  
27                  entered.

28                  Motions for reconsideration serve a limited function. Under the  
29                  Federal Rules of Civil Procedure, motions for reconsideration may be  
30                  made pursuant to Rule 59(e). The major grounds for granting a motion to  
31                  reconsider a judgment are: (1) intervening change of controlling law;  
32                  (2) availability of new evidence; and (3) the need to correct clear  
33                  error or prevent manifest injustice. School District No. 1J, Multnomah

1 County Oregon v. ACandS, Inc., 5 F.3d 1255, 1263 (9<sup>th</sup> Cir.1993). A  
2 motion for reconsideration is not appropriately brought to present  
3 arguments already considered by the Court. Backlund v. Barnhart, 778  
4 F.2d 1386, 1388 (9<sup>th</sup> Cir.1985). Plaintiff does not argue that there has  
5 been a change of controlling law, or that new evidence is available, but  
6 expressly argues that the Court committed clear error of law or fact and  
7 reconsideration is necessary to prevent a manifest injustice. Ct. Rec.  
8 at page 2.

9 Plaintiff argues for the first time that the decision of the Court  
10 should be reconsidered and set aside because the Amended Divorce Decree  
11 essentially had the effect of undoing her divorce from Jones. This  
12 cannot be reconciled with the allegations of Plaintiff's Complaint nor  
13 the plain meaning of the Amended Divorce Decree. The Amended Divorce  
14 Decree did not vacate Plaintiff's and Jones' divorce decree.

15 Plaintiff also argues that the Court erred by applying "Qualified  
16 Domestic Relations Order ("QDRO") law. Plaintiff contends that her  
17 application for retirement benefits was based upon, and should have been  
18 granted on the authority of, a death certificate which stated  
19 (incorrectly) that Golden was Jones' surviving spouse. Ct. Rec. 31 at  
20 pp. 2-3. The law is clear, however, that without a QDRO, a surviving  
21 spouse cannot be a beneficiary under an ERISA benefit plan. See 29  
22 U.S.C. §1056(d).<sup>1</sup>

23 The undersigned judicial officer concludes that "clear error" did  
24 not occur in granting dismissal to defendants, there is no "manifest  
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26           <sup>1</sup>This court expresses no opinion concerning plaintiff's  
27 eligibility, or lack thereof, to obtain a QDRO in another forum.

1 injustice" to the plaintiff from that ruling, and new evidence has not  
2 been presented which would change the Court's earlier order. Plaintiff  
3 According, there is no basis for reconsideration of the Court's April  
4 11, 2008 Order Granting Defendant's Motion to Dismiss, Ct. Rec. 26.  
5 Accordingly,

**6 || IT IS ORDERED** that:

7       1. Plaintiff's Motion to Reopen Case and Reconsider Order Granting  
8 Defendant's Motion to Dismiss, **Ct. Rec. 27**, filed April 21, 2008, is  
9 **DENIED**.

10 2. The District Court Executive is directed to:

11 (a) FILE THIS ORDER; and

12 (b) PROVIDE A COPY TO COUNSEL OF RECORD AND PRO SE PLAINTIFF.

13 DATED this 20<sup>th</sup> day of May, 2008.

*s/Lonny R. Suko*

LONNY R. SUKO  
UNITED STATES DISTRICT JUDGE